

Richard A. Pelley 15732500  
PELLEY LAW OFFICES  
905 North Travis Street  
Sherman, Texas 75090  
(903) 813-4778

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

IN RE:	
KEVIN W. GREEN AMY C. GREEN	CASE NO. 16-42114
DEBTOR(S)	

MOTION FOR ORDER MODIFYING PLAN PURSUANT TO AN AGREED  
ORDER ON A MOTION TO LIFT STAY ON THE HOMESTEAD

***NO HEARING WILL BE CONDUCTED ON THIS MOTION UNLESS AN OBJECTION IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AND SERVED UPON THE PARTY FILING THIS PLEADING WITHIN TWENTY EIGHT(28) DAYS FROM DATE OF SERVICE UNLESS THE COURT SHORTENS OR EXTENDS THE TIME FOR FILING SUCH OBJECTION.***

***IF NO OBJECTION IS TIMELY SERVED AND FILED, THIS PLEADING SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT. IF AN OBJECTION IS FILED AND SERVED IN A TIMELY MANNER, THE COURT WILL THEREAFTER SET A HEARING. IF YOU FAIL TO APPEAR AT THE HEARING, YOUR OBJECTION MAY BE STRICKEN. THE COURT RESERVES THE RIGHT TO SET A HEARING ON ANY MATTER.***

COMES NOW, **Kevin and Amy Green**, Debtors, (hereafter referred to as "Movant," whether singular or plural) and files this Motion for Order Modifying Plan and would respectfully show unto this Honorable Court as follows:

1. This Motion is filed pursuant to Bankruptcy Rule 3015(g) and Local Rule 3015(h)(1).
2. The plan under Chapter 13, of title 11, United States Code, filed by Movant, was duly confirmed by order of this Court dated May 1, 2017.

3. Under the plan, as confirmed, Debtor is required to pay the sum of **\$588.00** each month to the Chapter 13 Trustee, until the total sum of **\$33,800.00** is paid.

4. Since the date of the first payment which was December 11, 2016, Debtor has made installment payments under the plan up to **September 11, 2017**, in a total amount of \$4,399.00 paid as of the date of this motion which includes any tax refunds or other payments to the Trustee pursuant to the Trustee's receipt report.

5. Movant has fallen behind to the mortgage company.

6. The Movant desires to amend the plan pursuant to an Agreed Order on a Motion to Lift Stay on the homestead.

7. Debtor's in lieu of the Trustee shall make disbursement on the following secured claims:

CREDITOR	COLLATERAL
Ditech	Homestead
Grayson County	Homestead (Escrow)

Any tax authority who may file a proof of claim for ad valorem taxes shall be paid direct by the Debtor unless otherwise specifically provided for in this modification.

8. The following priority, administrative, Debtor attorney fees and specifically classified claims should be paid:

Creditor: Richard A. Pelley: Attorney's Fees  
 Allowed Amount: \$5,954.96 (Subject to Court Approval)

Creditor: Richard A. Pelley: Attorney's Fees  
 Allowed Amount: \$650.00 (For this Motion; First Funds)

Creditor: IRS  
 Allowed Amount: \$2,690.46

9. The following creditors should be paid:

CREDITOR: Ditech  
COLLATERAL: Homestead (pre-petition arrears)  
AMOUNT TO BE PAID: \$20,213.48  
INTEREST RATE: 4%  
NUMBER OF MONTHS: 60  
MONTHLY PAYMENT: \$372.26  
TOTAL PAYMENT: \$22,335.60

CREDITOR: Ditech  
COLLATERAL: Homestead (post-petition arrears)  
AMOUNT TO BE PAID: \$8,235.27 (pursuant to an Agreed Order on a Motion to  
Lift Stay on the homestead)  
INTEREST RATE: 0%

UNSECURED: \$1,404.15

10. The collateral on the following secured claims shall be surrendered to the creditor in lieu of the debt and discharged:

*None*

11. On the Chapter 13 Petition filing date, the following creditors have judicial liens upon exempt property of Debtors:

*None.*

In addition, the following creditors have non-possessory, non-purchase money security interests in Debtors' household furnishings, household goods, wearing apparel, appliances, books, animals, crops, musical instruments or jewelry, described in the tabulation below, all of which are held for Debtors' use, or for the use of Debtors' family, or household, or dependents:

*None*

Debtors has claimed and are entitled to claim the property subject to said judicial liens and non-possessory, non-purchase money security interests as exempt under 11 U.S.C.

sec. 522(b). To the extent that liens impair said exemptions allowed under applicable law, said liens shall be avoided.

12. Movant requests the Court to modify the Plan to reflect that the remaining payments be made through the Plan to the remaining Creditors be paid over a 50-month period in the amount of **\$830.00** per month beginning the **11th** day of **October, 2017**, together with any income tax refunds that the Debtor receives during the life of the plan for a total in the sum of **\$45,899.00**.

13. If disclosed in separately filed 2016b or requested in paragraph eight (8) above, Richard A. Pelley requests the sum of \$650.00 as additional attorney's fees to be paid for the additional services rendered by said attorney. Said services include but not limited to preparation of Motion to Modify, Order of Modification, Amended Schedules, Notice to interested parties, and attendance at hearings if any.

WHEREFORE, Movant prays for an order Modifying the Plan; and Movant prays for general relief.

Respectfully submitted,

PELLEY LAW OFFICE  
905 North Travis Street  
Sherman, Texas 75090  
(903) 813-4778

/s/Richard A. Pelley  
Richard A. Pelley 15732500

**CERTIFICATE OF SERVICE**

I certify that on October 11, 2017, a true and correct copy of the annexed/foregoing Motion for Order Modifying Chapter 13 Plan has been served by U.S., first class mail or electronic filing, as follows:

**Debtor:**

Kevin W. Green  
Amy C. Green  
716 Milam  
Van Alstyne, TX 75495

**Trustee:**

Standing Chapter 13 Trustee  
P.O. Box 941166  
Plano, Texas 75094-1166

U. S. Trustee  
300 Plaza Tower  
110 North College Avenue  
Tyler, Texas 75702

**Creditors:**

All creditors/parties in interest indicated on the attached creditor matrix.

/s/Richard A. Pelley  
Richard A. Pelley

Label Matrix for local noticing  
0540-4  
Case 16-42114  
Eastern District of Texas  
Sherman  
Wed Oct 11 11:15:45 CDT 2017

Carey D. Ebert  
P. O. Box 941166  
Plano, TX 75094-1166

Ashley Funding Services, LLC its successors  
assigns as assignee of Laboratory  
Corporation of America Holdings  
Resurgent Capital Services  
PO Box 10587  
Greenville, SC 29603-0587

DITECH FINANCIAL LLC  
14841 Dallas Parkway, Suite 300  
Dallas, TX 75254-7883

Attorney General of Texas  
Collection Div. - Bankruptcy  
Box 12548, Capitol Station  
Austin, TX 78711-2548

DITECH FINANCIAL LLC  
P.O. Box 6154  
Rapid City, SD 57709-6154

Ditech Financial  
PO Box 6172  
Rapid City, SD 57709-6172

Ditech Financial LLC fka Green Tree Servicing  
P.O. Box 6154  
Rapid City, South Dakota 57709-6154

FmHA  
101 S. Main St., Suite 102  
Temple, TX 76501-7651

Grayson County  
Linebarger Goggan Blair & Sampson LLP  
c/o Melissa L. Palo  
2777 N. Stemmons Freeway  
Suite 1000  
Dallas, Tx 75207-2328

Internal Revenue Service  
P.O. Box 7346  
Philadelphia, PA 19101-7346

Amy C. Green  
PO Box 205  
Van Alstyne, TX 75495-0205

Kevin W. Green  
PO Box 205  
Van Alstyne, TX 75495-0205

Office of Attorney General  
Child Support Division  
1600 Pacific, #700  
Dallas, TX 75201-3602

PRA Receivables Management, LLC  
PO Box 41021  
Norfolk, VA 23541-1021

Melissa L. Palo  
2777 N. Stemmons Freeway, Suite 1000  
Dallas, TX 75207-2328

(p)PELLEY LAW OFFICE L L P  
905 NORTH TRAVIS STREET  
SHERMAN TX 75090-5022

Pelley Law Offices  
905 N. Travis  
Sherman, TX 75090-5022

Quantum3 Group LLC as agent for  
Cascade Capital LLC Series A  
PO Box 788  
Kirkland, WA 98083-0788

Quantum3 Group LLC as agent for  
Sadino Funding LLC  
PO Box 788  
Kirkland, WA 98083-0788

SFC Central Bankruptcy  
PO Box 1893  
Spartanburg, SC 29304-1893

State Comptroller  
Capitol Station  
Austin, TX 78711

LynAlise Katherine Tannery  
Buckley Madole. P.C.  
14841 Dallas Parkway, Suite 425  
Dallas, TX 75254-8067

Texas Employment Commission  
T.E.C. Bldg., Tax Dept.  
Austin, TX 78778-0001

U.S. Attorney  
700 Nations Bank Tower  
110 N. College Ave.  
Tyler, TX 75702-7226

U.S. Attorney General  
Department of Justice  
Main Justice Building  
10th & Constitution Ave., NW  
Washington, DC 20530-0001

US Trustee  
Office of the U.S. Trustee  
110 N. College Ave.  
Suite 300  
Tyler, TX 75702-7231

Veterans Administration  
701 Clay Ave.  
Waco, TX 76706-1177

Zachary Wright  
2257 Washington Ave.  
Fort Worth, TX 76110-1962

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

Richard A. Pelley  
905 N. Travis St  
Sherman, TX 75090

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(d)Ditech Financial LLC  
14841 Dallas Parkway, Suite 300  
DALLAS, TX 75254-7883

(d)Carey D. Ebert  
P. O. Box 941166  
Plano, TX 75094-1166

(d)Carey D. Ebert  
P. O. Box 941166  
Plano, TX 75094-1166

(d)Grayson County  
Linebarger Goggan Blair & Sampson, LLP  
c/o Melissa L. Palo  
2777 N. Stemmons Freeway  
Suite 1000  
Dallas, TX 75207-2328

(d)Internal Revenue Service  
P.O. Box 7346  
Philadelphia, PA 19101-7346

(d)PRA Receivables Management, LLC  
PO Box 41021  
Norfolk, VA 23541-1021

(d)U.S. Attorney General  
Department of Justice  
Main Justice Building  
10th & Constitution Ave., NW  
Washington, DC 20530-0001

(d)US Trustee  
Office of the U.S. Trustee  
110 N. College Ave.  
Suite 300  
Tyler, TX 75702-7231

End of Label Matrix	
Mailable recipients	28
Bypassed recipients	8
Total	36

**Pelley Law Offices**  
905 N. Travis  
Sherman, TX 75090

Phone: (903) 813-4778  
Bar Number: 15732500

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

IN RE: **Kevin W. Green**  
**xxx-xx-2281**  
**Amy C. Green**  
**xxx-xx-1138**

*Debtor(s)*

§  
§  
§  
§  
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CASE NO **16-42114**

CHAPTER **13**

**MODIFIED CHAPTER 13 PLAN**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE OF SAID COURT:

COME NOW, Kevin W. Green and Amy C. Green, Debtors herein, and propose the following plan under Chapter 13 of the Bankruptcy Code:

1. The debts of DEBTOR(S) duly proved and allowed shall be paid to the holder thereof in accordance with the provisions of Chapter 13 of the Bankruptcy Code and this Plan.
2. The future earnings of DEBTOR(S) are submitted to the supervision and control of this Court, and DEBTOR(S) shall pay to the TRUSTEE a VARIABLE amount each month. Please refer to EXHIBIT "B" for a VARIABLE payment schedule. Payments shall commence on December 11, 2016 and shall continue at the intervals and in the amounts indicated on EXHIBIT "B".
3. From the payments received, the TRUSTEE will make disbursements in the following order:

(a). **Administrative Expenses:** The TRUSTEE shall FIRST pay the expenses as prescribed by the Court, for administration of this plan.

Name of Creditor	Type	Amount	Interest Rate	Monthly Payment	Term	Total Paid
Pelley Law Offices	Attorney Fees	\$5,954.96	0%	First Funds		\$5,954.96
Pelley Law Offices	Attorney Fees	\$650.00	0%	First Funds		\$650.00

(b). **Priority Claims:** All Claims entitled to priority under Section 507 of the Bankruptcy Code will be paid as follows:

Name of Creditor	Claim Amount	Amount Entitled To Priority	Interest Rate	Monthly Payment	Term	Total Paid
Internal Revenue Service	\$2,690.46	\$2,690.46	0%	Pro-Rata	1-59	\$2,690.46

(c). **Secured Claims:** Secured creditors, whose claims are duly and timely filed, approved and allowed will be treated as follows:

- (1). Pursuant to 11 U.S.C. § 1325(a)(5)(B)(i) the holder of any allowed secured claim shall retain its lien securing the underlying debt until the earlier of the payment of the underlying debt as determined under nonbankruptcy law or the debtor(s) obtain a discharge under Section 1328 of the Bankruptcy Code.

(2). **Payment of Secured Claims:** Secured creditors, whose claims are duly and timely filed, approved and allowed, will be paid as follows:

Name of Creditor	Amount Claimed	Principal Amt To Be Paid	Interest Rate	Monthly Payment	Term	Estimated Total Paid
Collateral	Value of Collat.					
Ditech Financial	\$20,213.48	\$20,213.48	4%	Pro-Rata	1-59	\$22,461.32
Homestead (pre-petition arrears)	\$335,000.00					
Ditech Financial	\$8,235.27	\$8,235.27	0%	Pro-Rata	1-59	\$8,235.27
Homestead (post-petition arrears)	\$335,000.00					

\* Variable payments are scheduled, please see Pro Forma, if attached.

Computer software provided by LegalPRO Systems, Inc., San Antonio, Texas (210) 561-5300.



(H) Kevin W. Green  
(W) Amy C. Green  
(C#) 16-42114

**MODIFIED CHAPTER 13 PLAN**

Page 2

- (3). **Void Lien:** The secured creditors listed below hold a non-purchase money, non-possessory security interest on Debtor(s) exempt property. Their lien will be voided pursuant to 11 U.S.C. § 522(f) and their claim treated as unsecured and paid pursuant to paragraph (e) below:

Name of Creditor	Collateral Description	Amount of Claim
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- (d). **Special Class:** The following specially classified claims shall be paid as follows:

Name of Creditor	Claim Amount	Principal Amt. To Be Paid	Interest Rate	Monthly Payment	Term	Total Paid
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- (e). **Unsecured Claims:** Unsecured claims will be paid pro rata by the TRUSTEE after payment of the aforementioned categories, to creditors who have duly and timely filed and proved their claim, with the same having been allowed by the Court, with such payments or dividends to be paid in lieu of the debt and in satisfaction of the debts of such creditors.

- (f). No interest, penalty or additional charge shall be allowed on any account subsequent to the filing of the petition herein, except that interest shall be allowed on claims to fully secured creditors in accordance with 11 U.S.C. § 506(b).

4. DEBTOR(S) shall pay direct the following debts outside the Plan:

Name of Creditor	Collateral Description	Monthly Amount	Balance
Ditech Financial	716 Milam Road		\$161,000.00
Grayson County	Homestead (Escrow)		

5. The following secured claims are not dealt with in the DEBTOR(S)' plan, therefore, upon confirmation of the DEBTOR(S)' Chapter 13 Plan, the automatic stay provisions of 11 U.S.C. § 362 will be terminated and annulled with respect to each of the following claims:

Name of Creditor	Collateral Description	Claim	Value	Deficiency
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The automatic stay provisions of 11 U.S.C. Sec. 362 remain in effect as to DEBTOR(S).

The remaining portion of the debt (deficiency), if any, shall be treated as any other general unsecured claim under this plan.

6. All executory contracts of the DEBTOR(S) will be assumed unless specifically rejected herein. The following executory contracts and/or leases are ASSUMED or REJECTED as indicated below:

Name of Creditor	Contract is Assumed/Rejected
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7. Upon confirmation of this plan, title of the property of the estate shall vest in DEBTOR(S).
8. The Court may, from time to time, during the period of the plan, extend, increase or reduce the amount of any of the installments provided for by the plan, or extend or shorten the time for any such payments where it shall be made to appear, after such hearing, upon such notice as the Court may designate, that the circumstances of DEBTOR(S) so warrant or so require; provided, however, that nothing in this plan shall be construed to prevent the granting of a discharge of DEBTOR(S) as provided in 11 U.S.C. § 1328.
9. **Post-Confirmation Cure or Waiver of Default:**  
Any default of the DEBTOR'S post-confirmation plan payments may only be WAIVED by compliance with the provisions of 11 U.S.C. § 1329. Any default of post-confirmation plan payments may only be CURED by permission of the Standing Chapter 13 Trustee and compliance with such conditions as the TRUSTEE may impose.
10. **Post-Petition Claims:**  
The DEBTOR(S) will not incur any post-petition consumer debt except after notice to creditors and approval by the Court or the Standing Chapter 13 Trustee. Post-petition claims will be allowed only as specified in 11 U.S.C. § 1305.

11. The Attorneys for DEBTOR(S) will be automatically relieved and released as attorneys of record for DEBTOR(S) upon approval of the plan.

(H) Kevin W. Green  
(W) Amy C. Green  
(C#) 16-42114

**MODIFIED CHAPTER 13 PLAN**

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**Additional Provisions of the Plan**

**Tax Authority**

To the extent that Debtor provides for payment for ad valorem taxes in the body of this plan to a tax collector, that payment will include any and all tax authorities which may have claims for which that tax assessor/collector normally collects.

**Modification Fee**

Notwithstanding paragraph 4b, attorney's fees shall be paid as follows:

Creditor: Richard A. Pelley: Attorney's Fees

Allowed Amount: \$5,954.96 (subject to Court approval)

Creditor: Richard A. Pelley: Attorney's Fees

Allowed Amount: \$650.00 Attorney's fees for this motion

DATED on this the 11th day of October, 2017.

/s/ Kevin W. Green

Debtor: Kevin W. Green

**Pelley Law Offices**

/s/ Amy C. Green

Debtor: Amy C. Green

/s/ Richard Pelley

**Richard Pelley**

Bar Number: 15732500

905 N. Travis

Sherman, TX 75090

Phone: (903) 813-4778

Fax: (903) 813-0586

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

IN RE: **Kevin W. Green**  
**Amy C. Green**  
*Debtor(s)*

CASE NO **16-42114**

CHAPTER **13**

**EXHIBIT "B" - VARIABLE PLAN PAYMENTS**

**PROPOSED PLAN OF REPAYMENT (VARIABLE PAYMENTS INTO THE PLAN)**

<u>Month / Due Date</u>	<u>Payment</u>	<u>Month / Due Date</u>	<u>Payment</u>	<u>Month / Due Date</u>	<u>Payment</u>
1 12/11/2016	\$439.90	21 08/11/2018	\$830.00	41 04/11/2020	\$830.00
2 01/11/2017	\$439.90	22 09/11/2018	\$830.00	42 05/11/2020	\$830.00
3 02/11/2017	\$439.90	23 10/11/2018	\$830.00	43 06/11/2020	\$830.00
4 03/11/2017	\$439.90	24 11/11/2018	\$830.00	44 07/11/2020	\$830.00
5 04/11/2017	\$439.90	25 12/11/2018	\$830.00	45 08/11/2020	\$830.00
6 05/11/2017	\$439.90	26 01/11/2019	\$830.00	46 09/11/2020	\$830.00
7 06/11/2017	\$439.90	27 02/11/2019	\$830.00	47 10/11/2020	\$830.00
8 07/11/2017	\$439.90	28 03/11/2019	\$830.00	48 11/11/2020	\$830.00
9 08/11/2017	\$439.90	29 04/11/2019	\$830.00	49 12/11/2020	\$830.00
10 09/11/2017	\$439.90	30 05/11/2019	\$830.00	50 01/11/2021	\$830.00
11 10/11/2017	\$830.00	31 06/11/2019	\$830.00	51 02/11/2021	\$830.00
12 11/11/2017	\$830.00	32 07/11/2019	\$830.00	52 03/11/2021	\$830.00
13 12/11/2017	\$830.00	33 08/11/2019	\$830.00	53 04/11/2021	\$830.00
14 01/11/2018	\$830.00	34 09/11/2019	\$830.00	54 05/11/2021	\$830.00
15 02/11/2018	\$830.00	35 10/11/2019	\$830.00	55 06/11/2021	\$830.00
16 03/11/2018	\$830.00	36 11/11/2019	\$830.00	56 07/11/2021	\$830.00
17 04/11/2018	\$830.00	37 12/11/2019	\$830.00	57 08/11/2021	\$830.00
18 05/11/2018	\$830.00	38 01/11/2020	\$830.00	58 09/11/2021	\$830.00
19 06/11/2018	\$830.00	39 02/11/2020	\$830.00	59 10/11/2021	\$830.00
20 07/11/2018	\$830.00	40 03/11/2020	\$830.00	60 11/11/2021	\$830.00